

REMARKS

Claims 19 to 36 are now pending.

Reconsideration is respectfully requested based on the following.

As to the objections to the drawings, five Replacement Sheets for the drawings accompany this response, as suggested. No new matter has been added, and the Replacement Sheets (which add labels to the blocks) are supported by the present application, including the specification. Entry and approval is respectfully requested.

Claims 19 to 36 were rejected under 35 U.S.C. § 102(b) as anticipated by Grochowski et al. U.S. Patent No. 6,615,366 (the "Grochowski" reference).

To reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Final Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Final Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (*See M.P.E.P.* § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

While the rejections may not be agreed with, to facilitate matters, claim 19 has been rewritten to better clarify the claimed subject matter. In particular, claim 19, as presented, relates to *a method for switching between at least two operating modes of a processor unit that includes at least two execution units for running programs, including: assigning at least one identifier to at least the programs, the identifier allowing a differentiation between the at*

*least two operating mode; switching between the operating modes as a function of the identifier such that the processor unit runs the programs according to the assigned operating mode; and comparing two input values of the at least two execution units, in which the identifier is a part of at least a program.*

The text cited at column 3, lines 57 to 67 and column 9, lines 61 to 65 of the "Grochowski" reference does not identically disclose (nor even suggest) the above-emphasized features of claim 19, as presented. The "Grochowski" reference merely concerns switching between a High Performance ("HP") mode and a High Reliability ("HR") mode for a processor having dual execution units wherein under the HR mode, the results of the two execution units are compared. The cited portions or any part of the "Grochowski" reference do not identically disclose (or even suggest) the feature of *switching between the operating modes as a function of the identifier such that the processor unit runs the programs according to the assigned operating mode; and comparing two input values of the at least two execution units, in which the identifier is a part of at least a program.*, as provided for in the context of claim 19, as presented.

Accordingly, for at these reasons, claim 19, as presented, is allowable, as are its dependent claims 19 to 33.

Claims 34 and 36, as presented, include features similar to those of claim 19, as presented, and are therefore allowable for essentially the same reasons as claim 19, as presented.

Claim 35 depends from claim 34, as presented, and is therefore allowable for the same reasons as claim 34, as presented.

In summary, all pending claims 19 to 36 are allowable.

**CONCLUSION**

In view of the foregoing, all pending claims 19 to 36 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

KENYON & KENYON LLP

Dated: 6/13/2008

By: 

Gerard A. Messina  
(Reg. No. 35,952)

One Broadway  
New York, NY 10004  
(212) 425-7200

*By [Signature]  
Reg. no.  
33,865  
Adair  
D'EDITION*

**CUSTOMER NO. 26646**